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10 and the Proposed Class
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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
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17 JONATHAN SAPAN,
18 individually and on Behalf of All Others
19 Similarly Situated
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22 Plaintiff,
23 vs.
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25 YELP, INC., a Delaware Corporation,
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28 Defendant.

Case No.: 3:17-cv-03240

29 **DECLARATION OF JONATHAN
SAPAN IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

30 Honorable James Donato
31 Motion Date: April 5, 2018
32 Motion Time: 10:00 a.m.
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34

35 **DECLARATION**
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37 I, Jonathan Sapan, state the following to be true and correct under penalty of
38 perjury of the laws of the United States:
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1. I have personal knowledge of the following facts and if so requested, I could and would competently testify hereto.

2. I have had the phone number (858-324-9001) assigned to me since August 13, 2013.

3. Yelp made six (6) live calls to my home phone number (858-324-9001) wherein they tried to pitch Yelp advertising on the following dates and times and using the following Caller ID (“CID”) numbers and Caller ID name (“CNAM”):

- January 31, 2017 at 5:49pm PDT, CID 415-266-3330 UNKNOWN NAME
 - February 6, 2017 at 9:19am PDT, CID 415-266-3330 UNKNOWN NAME
 - February 10, 2017 at 1:12pm PDT, CID 415-266-3330 UNKNOWN NAME
 - February 16, 2017 at 11:01am PDT, CID 415-266-3330 San Francisc CA [sic]
 - February 22, 2017 at 9:39am PDT, CID 415-266-3330 San Francisc CA [sic]
 - March 1, 2017 at 3:57pm PDT, CID 415-266-3330 UNKNOWN NAME

4. Therefore, I allege on information and belief that Yelp transmitted each of the calls I did not answer, and transmitted them for the purpose of trying to sell their services.

5. I answered the March 1, 2017 phone call at which time, in a audibly annoyed voice, I told the person on if I was interested I would call you back, then hung up, and they did not call me again.

1 6. I hate telemarketing calls and I have placed all of my phone numbers
2 on the National Do-Not-Call Registry.

3 7. My phone number 858-324-9001 has been listed on the Do Not Call
4 Registry continuously from August 17, 2013 to the present.

5 8. I never gave Yelp my phone number nor expressly or impliedly
6 consented to them calling me, and all of my use of the Yelp website was done
7 online.

8 9. I never called Yelp to inquire about their products or services or make
9 any transaction with Yelp.

10 10. The Yelp listing for the roofing company because the listing came to
11 my attention after I had made a claim against a company for violating the TCPA.

12 11. They claimed that my number was listed as a business.

13 12. I did not attempt to edit the Yelp listing because I did not want to be
14 accused of tampering with a page that might be evidence.

15 13. I also did not want to do anything to suggest that I had anything to do
16 with creating the listing or that I had any control over it.

17 14. Furthermore, the fact that wrong information appeared about my
18 number of the internet would be of no consequence to any telemarketer who was
19 obeying the law. Telemarketers must check the National Do Not Call list, as
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1 specifically required by Federal Law. They cannot rely on random information
2 they find on the Internet, which is, in my opinion, notoriously inaccurate.

3 15. To the best of my knowledge I believe that whoever created the Yelp
4 page for Tierrasanta Pro Roofing put 858-324-9001 as the phone number.

5 16. I did not create the Yelp page for Tierrasanta Pro Roofing, or provide
6 any information to Yelp on behalf of Tierrasanta Pro Roofing.

7 17. To the best of my knowledge I believe the DNC Registry is a data
8 base set up by the Federal government containing phone numbers of people who
9 do not wish to receive telemarketing calls.

10 18. I did not create the Yelp page for Tierrasanta Pro Roofing.

11 19. My 858-324-9001 number has a voicemail f which clearly states my
12 name as the person owning the line, or if the call is forwarded to my cell phone
13 that line also has a voicemail which clearly states my name as the owner of the
14 line.

15 I declare under penalty of perjury under the laws of the State of
16 Massachusetts, California and the United States of America that the foregoing is
17 true and correct and that this document is executed by me in Norfolk,
18
19 Massachusetts.

20 DATED: 3/14/2018

21 _____ /s/ Jonathan Sapan _____
22 By: Jonathan Sapan